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ENGROSSED SUBSTITUTE HOUSE BILL 2692

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State of Washington

62nd Legislature

2012 Regular Session

**By** House Public Safety & Emergency Preparedness (originally sponsored by Representatives Orwall, Asay, Parker, Carlyle, Kelley, Hurst, Ormsby, Kagi, Dickerson, Upthegrove, Goodman, Pettigrew, Maxwell, Dahlquist, Dammeier, Moscoso, Pearson, and Kenney)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to the reduction of the commercial sale of sex;  
2 amending RCW 9A.88.120, 9A.88.130, 3.50.100, 3.62.020, 3.62.040,  
3 10.82.070, and 35.20.220; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9A.88.120 and 2007 c 368 s 12 are each amended to read  
6 as follows:

7 (1)(a) In addition to penalties set forth in RCW 9A.88.010,  
8 9A.88.030, and 9A.88.090, a person who is either convicted or given a  
9 deferred sentence or a deferred prosecution or who has entered into a  
10 statutory or nonstatutory diversion agreement as a result of an arrest  
11 for violating RCW 9A.88.010, 9A.88.030, 9A.88.090, or comparable county  
12 or municipal ordinances shall be assessed a fifty dollar fee.

13 (b)(i) In addition to penalties set forth in RCW 9A.88.110, a  
14 person who is either convicted or given a deferred sentence or a  
15 deferred prosecution or who has entered into a statutory or  
16 nonstatutory diversion agreement as a result of an arrest for violating  
17 RCW 9A.88.110 or a comparable county or municipal ordinance shall be  
18 assessed a ~~((one hundred fifty dollar))~~ fee in the amount of:

19 (A) One thousand five hundred dollars for the first offense;

1 (B) Two thousand five hundred dollars for the second offense; and  
2 (C) Five thousand dollars for the third and each subsequent  
3 offense.

4 (ii) Fees assessed under this subsection (1)(b) shall not be  
5 reduced, waived, or suspended.

6 (iii) Fees assessed under this subsection (1)(b) shall be collected  
7 by the clerk of court and be remitted to the treasurer of the county  
8 where the offense occurred for deposit in the county general fund,  
9 except in cases in which the offense occurred in a city or town that  
10 provides for its own law enforcement, in which case these amounts shall  
11 be remitted to the treasurer of the city or town for deposit in the  
12 general fund of the city or town. Revenue from the fees must be used  
13 for local efforts to reduce the commercial sale of sex including, but  
14 not limited to, increased enforcement of commercial sex laws.

15 (A) At least fifty percent of the revenue from fees imposed under  
16 this subsection (1)(b) must be spent on prevention, including education  
17 programs for offenders, such as john school, and rehabilitative  
18 services, such as mental health and substance abuse counseling,  
19 parenting skills training, housing relief, education, vocational  
20 training, drop-in centers, and employment counseling.

21 (B) Revenues from these fees are not subject to the distribution  
22 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or  
23 35.20.220.

24 (c) In addition to penalties set forth in RCW 9A.88.070 and  
25 9A.88.080, a person who is either convicted or given a deferred  
26 sentence or a deferred prosecution or who has entered into a statutory  
27 or nonstatutory diversion agreement as a result of an arrest for  
28 violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal  
29 ordinances shall be assessed a three hundred dollar fee.

30 (2) The court may not suspend payment of all or part of the fee  
31 unless it finds that the person does not have the ability to pay.

32 (3) When a minor has been adjudicated a juvenile offender or has  
33 entered into a statutory or nonstatutory diversion agreement for an  
34 offense which, if committed by an adult, would constitute a violation  
35 under this chapter or comparable county or municipal ordinances, the  
36 court shall assess the fee as specified under subsection (1) of this  
37 section. The court may not suspend payment of all or part of the fee

1 unless it finds that the minor does not have the ability to pay the  
2 fee.

3 (4) Any fee assessed under this section shall be collected by the  
4 clerk of the court and distributed each month to the state treasurer  
5 for deposit in the prostitution prevention and intervention account  
6 under RCW 43.63A.740 for the purpose of funding prostitution prevention  
7 and intervention activities.

8 (5) For the purposes of this section:

9 (a) "Statutory or nonstatutory diversion agreement" means an  
10 agreement under RCW 13.40.080 or any written agreement between a person  
11 accused of an offense listed in subsection (1) of this section and a  
12 court, county, or city prosecutor, or designee thereof, whereby the  
13 person agrees to fulfill certain conditions in lieu of prosecution.

14 (b) "Deferred sentence" means a sentence that will not be carried  
15 out if the defendant meets certain requirements, such as complying with  
16 the conditions of probation.

17 **Sec. 2.** RCW 9A.88.130 and 1999 c 327 s 2 are each amended to read  
18 as follows:

19 (1) When sentencing or imposing conditions on a person convicted  
20 of, or receiving a deferred sentence or deferred prosecution for,  
21 violating RCW 9A.88.110 or 9.68A.100, the court must impose a  
22 requirement that the offender:

23 (a) Not be subsequently arrested for patronizing a prostitute or  
24 (~~patronizing a juvenile prostitute~~) commercial sexual abuse of a  
25 minor; (~~and~~)

26 (b) Remain outside the geographical area, prescribed by the court,  
27 in which the person was arrested for violating RCW 9A.88.110 or  
28 9.68A.100, unless such a requirement would interfere with the person's  
29 legitimate employment or residence or otherwise be infeasible; and

30 (c) Fulfill the terms of a program, if a first-time offender,  
31 designated by the sentencing court, designed to educate offenders about  
32 the negative costs of prostitution.

33 (2) This requirement is in addition to the penalties set forth in  
34 RCW 9A.88.110, 9A.88.120, and 9.68A.100.

35 **Sec. 3.** RCW 3.50.100 and 2009 c 479 s 3 are each amended to read  
36 as follows:

1 (1) Costs in civil and criminal actions may be imposed as provided  
2 in district court. All fees, costs, fines, forfeitures and other money  
3 imposed by any municipal court for the violation of any municipal or  
4 town ordinances shall be collected by the court clerk and, together  
5 with any other noninterest revenues received by the clerk, shall be  
6 deposited with the city or town treasurer as a part of the general fund  
7 of the city or town, or deposited in such other fund of the city or  
8 town, or deposited in such other funds as may be designated by the laws  
9 of the state of Washington.

10 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
11 treasurer shall remit monthly thirty-two percent of the noninterest  
12 money received under this section, other than for parking infractions,  
13 and certain costs to the state treasurer. "Certain costs" as used in  
14 this subsection, means those costs awarded to prevailing parties in  
15 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded  
16 against convicted defendants in criminal actions under RCW 10.01.160,  
17 10.46.190, or 36.18.040, or other similar statutes if such costs are  
18 specifically designated as costs by the court and are awarded for the  
19 specific reimbursement of costs incurred by the state, county, city, or  
20 town in the prosecution of the case, including the fees of defense  
21 counsel. Money remitted under this subsection to the state treasurer  
22 shall be deposited in the state general fund.

23 (3) The balance of the noninterest money received under this  
24 section shall be retained by the city and deposited as provided by law.

25 (4) Penalties, fines, bail forfeitures, fees, and costs may accrue  
26 interest at the rate of twelve percent per annum, upon assignment to a  
27 collection agency. Interest may accrue only while the case is in  
28 collection status.

29 (5) Interest retained by the court on penalties, fines, bail  
30 forfeitures, fees, and costs shall be split twenty-five percent to the  
31 state treasurer for deposit in the state general fund, twenty-five  
32 percent to the state treasurer for deposit in the judicial information  
33 system account as provided in RCW 2.68.020, twenty-five percent to the  
34 city general fund, and twenty-five percent to the city general fund to  
35 fund local courts.

36 **Sec. 4.** RCW 3.62.020 and 2011 1st sp.s. c 44 s 1 are each amended  
37 to read as follows:

1 (1) Except as provided in subsection (4) of this section, all  
2 costs, fees, fines, forfeitures and penalties assessed and collected in  
3 whole or in part by district courts, except costs, fines, forfeitures  
4 and penalties assessed and collected, in whole or in part, because of  
5 the violation of city ordinances, shall be remitted by the clerk of the  
6 district court to the county treasurer at least monthly, together with  
7 a financial statement as required by the state auditor, noting the  
8 information necessary for crediting of such funds as required by law.

9 (2) Except as provided in RCW 9A.88.120, 10.99.080, and this  
10 section, the county treasurer shall remit thirty-two percent of the  
11 noninterest money received under subsection (1) of this section except  
12 certain costs to the state treasurer. "Certain costs" as used in this  
13 subsection, means those costs awarded to prevailing parties in civil  
14 actions under RCW 4.84.010 or 36.18.040, or those costs awarded against  
15 convicted defendants in criminal actions under RCW 10.01.160,  
16 10.46.190, or 36.18.040, or other similar statutes if such costs are  
17 specifically designated as costs by the court and are awarded for the  
18 specific reimbursement of costs incurred by the state or county in the  
19 prosecution of the case, including the fees of defense counsel. With  
20 the exception of funds to be transferred to the judicial stabilization  
21 trust account under RCW 3.62.060(2), money remitted under this  
22 subsection to the state treasurer shall be deposited in the state  
23 general fund.

24 (3) The balance of the noninterest money received by the county  
25 treasurer under subsection (1) of this section shall be deposited in  
26 the county current expense fund. Funds deposited under this subsection  
27 that are attributable to the county's portion of a surcharge imposed  
28 under RCW 3.62.060(2) must be used to support local trial court and  
29 court-related functions.

30 (4) All money collected for county parking infractions shall be  
31 remitted by the clerk of the district court at least monthly, with the  
32 information required under subsection (1) of this section, to the  
33 county treasurer for deposit in the county current expense fund.

34 (5) Penalties, fines, bail forfeitures, fees, and costs may accrue  
35 interest at the rate of twelve percent per annum, upon assignment to a  
36 collection agency. Interest may accrue only while the case is in  
37 collection status.

1 (6) Interest retained by the court on penalties, fines, bail  
2 forfeitures, fees, and costs shall be split twenty-five percent to the  
3 state treasurer for deposit in the state general fund, twenty-five  
4 percent to the state treasurer for deposit in the judicial information  
5 system account as provided in RCW 2.68.020, twenty-five percent to the  
6 county current expense fund, and twenty-five percent to the county  
7 current expense fund to fund local courts.

8 **Sec. 5.** RCW 3.62.040 and 2009 c 479 s 6 are each amended to read  
9 as follows:

10 (1) Except as provided in subsection (4) of this section, all  
11 costs, fines, forfeitures and penalties assessed and collected, in  
12 whole or in part, by district courts because of violations of city  
13 ordinances shall be remitted by the clerk of the district court at  
14 least monthly directly to the treasurer of the city wherein the  
15 violation occurred.

16 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
17 treasurer shall remit monthly thirty-two percent of the noninterest  
18 money received under this section, other than for parking infractions  
19 and certain costs, to the state treasurer. "Certain costs" as used in  
20 this subsection, means those costs awarded to prevailing parties in  
21 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded  
22 against convicted defendants in criminal actions under RCW 10.01.160,  
23 10.46.190, or 36.18.040, or other similar statutes if such costs are  
24 specifically designated as costs by the court and are awarded for the  
25 specific reimbursement of costs incurred by the state, county, city, or  
26 town in the prosecution of the case, including the fees of defense  
27 counsel. Money remitted under this subsection to the state treasurer  
28 shall be deposited in the state general fund.

29 (3) The balance of the noninterest money received under this  
30 section shall be retained by the city and deposited as provided by law.

31 (4) All money collected for city parking infractions shall be  
32 remitted by the clerk of the district court at least monthly to the  
33 city treasurer for deposit in the city's general fund.

34 (5) Penalties, fines, bail forfeitures, fees, and costs may accrue  
35 interest at the rate of twelve percent per annum, upon assignment to a  
36 collection agency. Interest may accrue only while the case is in  
37 collection status.

1 (6) Interest retained by the court on penalties, fines, bail  
2 forfeitures, fees, and costs shall be split twenty-five percent to the  
3 state treasurer for deposit in the state general fund, twenty-five  
4 percent to the state treasurer for deposit in the judicial information  
5 system account as provided in RCW 2.68.020, twenty-five percent to the  
6 city general fund, and twenty-five percent to the city general fund to  
7 fund local courts.

8 **Sec. 6.** RCW 10.82.070 and 2009 c 479 s 13 are each amended to read  
9 as follows:

10 (1) All sums of money derived from costs, fines, penalties, and  
11 forfeitures imposed or collected, in whole or in part, by a superior  
12 court for violation of orders of injunction, mandamus and other like  
13 writs, for contempt of court, or for breach of the penal laws shall be  
14 paid in cash by the person collecting the same, within twenty days  
15 after the collection, to the county treasurer of the county in which  
16 the same have accrued.

17 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the county  
18 treasurer shall remit monthly thirty-two percent of the money received  
19 under this section except for certain costs to the state treasurer for  
20 deposit in the state general fund and shall deposit the remainder as  
21 provided by law. "Certain costs" as used in this subsection, means  
22 those costs awarded to prevailing parties in civil actions under RCW  
23 4.84.010 or 36.18.040, or those costs awarded against convicted  
24 defendants in criminal actions under RCW 10.01.160, 10.46.190, or  
25 36.18.040, or other similar statutes if such costs are specifically  
26 designated as costs by the court and are awarded for the specific  
27 reimbursement of costs incurred by the state or county in the  
28 prosecution of the case, including the fees of defense counsel. Costs  
29 or assessments awarded to dedicated accounts, state or local, are not  
30 subject to this state allocation or to RCW 7.68.035.

31 (3) All fees, fines, forfeitures and penalties collected or  
32 assessed by a district court because of the violation of a state law  
33 shall be remitted as provided in chapter 3.62 RCW as now exists or is  
34 later amended. All fees, fines, forfeitures, and penalties collected  
35 or assessed by a superior court in cases on appeal from a lower court  
36 shall be remitted to the municipal or district court from which the  
37 cases were appealed.

1       **Sec. 7.** RCW 35.20.220 and 2009 c 479 s 19 are each amended to read  
2 as follows:

3       (1) The chief clerk, under the supervision and direction of the  
4 court administrator of the municipal court, shall have the custody and  
5 care of the books, papers and records of the court. The chief clerk or  
6 a deputy shall be present during the session of the court and has the  
7 power to swear all witnesses and jurors, administer oaths and  
8 affidavits, and take acknowledgments. The chief clerk shall keep the  
9 records of the court and shall issue all process under his or her hand  
10 and the seal of the court. The chief clerk shall do and perform all  
11 things and have the same powers pertaining to the office as the clerks  
12 of the superior courts have in their office. He or she shall receive  
13 all fines, penalties, and fees of every kind and keep a full, accurate,  
14 and detailed account of the same. The chief clerk shall on each day  
15 pay into the city treasury all money received for the city during the  
16 day previous, with a detailed account of the same, and taking the  
17 treasurer's receipt therefor.

18       (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
19 treasurer shall remit monthly thirty-two percent of the noninterest  
20 money received under this section, other than for parking infractions  
21 and certain costs to the state treasurer. "Certain costs" as used in  
22 this subsection, means those costs awarded to prevailing parties in  
23 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded  
24 against convicted defendants in criminal actions under RCW 10.01.160,  
25 10.46.190, or 36.18.040, or other similar statutes if such costs are  
26 specifically designated as costs by the court and are awarded for the  
27 specific reimbursement of costs incurred by the state, county, city, or  
28 town in the prosecution of the case, including the fees of defense  
29 counsel. Money remitted under this subsection to the state treasurer  
30 shall be deposited in the state general fund.

31       (3) The balance of the noninterest money received under this  
32 section shall be retained by the city and deposited as provided by law.

33       (4) Penalties, fines, bail forfeitures, fees, and costs may accrue  
34 interest at the rate of twelve percent per annum, upon assignment to a  
35 collection agency. Interest may accrue only while the case is in  
36 collection status.

37       (5) Interest retained by the court on penalties, fines, bail  
38 forfeitures, fees, and costs shall be split twenty-five percent to the

1 state treasurer for deposit in the state general fund, twenty-five  
2 percent to the state treasurer for deposit in the judicial information  
3 system account as provided in RCW 2.68.020, twenty-five percent to the  
4 city general fund, and twenty-five percent to the city general fund to  
5 fund local courts.

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